

EXHIBIT 3

Hon. Tiffany M. Cartwright

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOANN LEDOUX, a single woman.

Plaintiffs,

v.

OUTLIERS, INC. (d/b/a THESIS,
THESIS NOOTROPICS, FIND MY
FORMULA, and FORMULA), a
Delaware Corporation; DANIEL FREED,
individually; MATT RUBIN,
individually; BRAND
NUTRACEUTICALS, INC. (d/b/a
BRAND NUTRA), a New York
Corporation; BRAND PACKAGING
GROUP, INC. (d/b/a BRAND
NUTRACEUTICALS), a New York
Corporation; and John and Jane Does 1-5.
Defendants.

Defendants.

No. 3:24-cv-05808-TMC

AFFIDAVIT OF BEN FISHER

TO: CLERK OF COURT

AND TO: PLAINTIFF AND HER COUNSEL OF RECORD

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

BEFORE ME, personally appeared BEN FISHER, who after first being duly
sworn, deposes and says:

1. That affiant is over eighteen years of age, a resident of the State of
California and otherwise sui juris.

Affidavit of Ben Fisher -- Page 1
Case No: 3:24-cv-0508

Stuart N. Kaplan, P.A.
3399 PGA Blvd., Suite 150
Palm Beach Gardens, FL 33410
(361) 296-7900

EXHIBIT

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1 2. That all of the facts attested hereto are based upon personal knowledge,
2 not information or belief, unless stated otherwise.

3 3. That affiant is competent to testify to the matters herein in affiant's
4 capacity as the co-founder and former CTO of CartHook a product that enabled online
5 retailers to build within their websites for consumers/customers/clients an optimal
6 checkout funnel by implementing the world's first one-page conspicuous Internet
7 friendly user checkout with a one-click post-purchase upsell process as more fully set
8 forth hereinbelow.

9
10 4. That from March 2021 through at least the end of 2021 and beyond one of our
11 firm's clients was Find Formula/Outliers k/n/a Outliers Inc. 9 d/b/a Thesis , Thesis
12 Nootropics, Find My Formula, and Formula), a Delaware Corporation whose principals are
13 Daniel Freed and Matt Rubin.

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15 5. That affiant has reviewed the affidavits in the above entitled action filed by
16 Plaintiff, Joann Ledoux, Jocelyn C. Stewart , Esquire and Dustin Sanchez on November 27,
17 2024 plus the exhibits 1 through 11 contained in the Declaration of Jocelyn C. Stewart,
18 Esquire (Document 27). Accordingly, affiant now offers the true facts in opposition to those
19 submissions on behalf of Plaintiff, Joann Ledoux.

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21 6. I am Ben Fisher, the Co-founder and former CTO and Head of Product of
22 CartHook.

23 7. We enabled online retailers to build optimized checkout funnels with the
24 world's first one-page checkout with one-click post-purchase upsells. On Shopify, we
25 processed upwards of \$600,000,000.00 per year, and CartHook became one of the most
26

1 trusted and successful Shopify applications in the world. We were acquired by Pantastic in
2 2022.

3 8. Affiant oversaw the design and development of the one-page checkout and the
4 integration with subscription services that allowed consumers to purchase subscriptions on
5 the CartHook checkout. On the one-page checkout for a subscription product, directly above
6 the complete purchase button was a check box that stated a user is agreeing to purchase a
7 subscription and agreeing to the company's Terms and Conditions. If the box was not
8 checked, you would not be able to complete the subscription purchase.
9

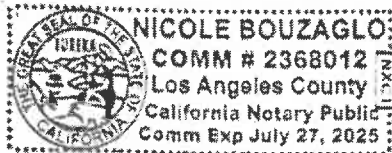
10 9. CartHook was an independent entity. From March 2021 through at least the
11 end of 2021 and beyond, one of our firm's clients was Find Formula/Outliers k/n/a Outliers
12 Inc. 9 d/b/a Thesis, Thesis Nootropics, Find My Formula, and Formula), a Delaware
13 Corporation whose principals are Daniel Freed and Matt Rubin.
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15 10. Affiant can attest that during the calendar year 2021, the default configuration
16 of the one page checkout contained a checkbox above the "buy button" and that and in order
17 to purchase products, a customer must have the checkbox ticked off, to accept the "Terms
18 and Conditions". On the default configuration, if the checkbox wasn't checked, it would be
19 impossible to purchase a subscription. There was a feature that would allow a brand to
20 customize their checkout and remove the checkbox if they chose to but they would need to
21 intentionally modify the checkout and make changes to the core functionality of the page.
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1
2 FURTHER AFFIANT SAYETH NAUGHT

3
4 
5 BEN FISHER

6 SWORN TO and subscribed before me this 10 day of December 2024, by BEN FISHER.




Notary Public

Nicole Bouzaglo
(Print Name)
Commission No: 2368012

10 Personally Known ☐ OR Produced
11 Identification ☒
12 Type of Identification Drivers license

13
14 DATED: December 10, 2024.

15 THE LAW OFFICES OF STUART N.
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22 By: /s/ Stuart N. Kaplan
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Attorneys for Defendants Outliers, Inc.,
Daniel Freed, and Matt Rubin